

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3805

IN THE MATTER OF:

Served August 9, 1991

Application of ANA HALLO TOURS)
(USA), INC., for Approval of)
Contract Pursuant to the Compact,)
Title II, Article XII, Section 3)

Case No. AP-91-26

By correspondence filed from April 9, 1991, through May 20, 1991, ANA Hallo Tours (USA), Inc. (ANA), seeks Commission approval of a contract with Destination Washington, Limited (DWL), pursuant to the Compact, Title II, Article XII, Section 3. That section provides as follows:

3. (a) A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to --

(i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

(ii) purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operated in the Metropolitan District; or

(iii) acquire control of another carrier that operated in the Metropolitan District through ownership of its stock or other means.

(b) Application for Commission approval of a transaction under the Section shall be made in the form and with the information that the regulations of the Commission require.

(c) If the Commission finds, after notice and hearing, that the proposed transaction is consistent with the public interest, the Commission shall pass an order authorizing the transaction.

(d) Pending determination of an application filed under this section, the Commission may grant 'temporary approval' without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.

ANA holds WMATC Certificate No. 144. The proposed agreement calls for DWL, not a WMATC certificated carrier, to provide drivers for ANA's vehicles, to maintain and fuel ANA's vehicles, and to maintain a vehicle inspection book and driver files according to United States Department of Transportation requirements.

Although DWL is not a WMATC certificated carrier, it appears from the correspondence that DWL is under common control with Phoenix Tours, Inc., the holder of WMATC Certificate No. 110. Therefore, the

proposed agreement requires Commission approval under the Compact, Title II, Article XII, Section 3(a)(ii), if the Commission finds that the proposed agreement constitute a real and important part of its property and is therefore a "substantial part."

Because arrangements within the ambit of the Compact, Title II, Article XII, Section 3, may appear in so many varieties, the Commission has not adopted a specific form of application for approval. The correspondence on this matter adequately discloses the terms of the proposed agreement, and the Commission will deem the correspondence to date as constituting an application for approval.

ANA and Phoenix will both be named parties to the application. Phoenix will be directed to disclose the nature of its relationship with DWL. This order will provide notice and opportunity for hearing pursuant to the Compact, Title II, Article XII, Section 3(c).

THEREFORE, IT IS ORDERED:

1. That ANA Hallo Tours (USA), Inc., and Phoenix Tours, Inc., are named parties to this application.

2. That Phoenix Tours, Inc., is directed to file with the Commission within 15 days of the date of this order, five copies of a statement of full disclosure of its relationship with Destination Washington, Limited.

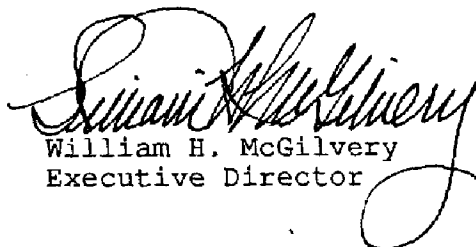
3. That ANA Hallo Tours (USA), Inc., is directed to file with the Commission within 15 days of the date of this order five copies of the proposed contract with Destination Washington, Limited.

4. That any person wanting to protest this application shall do so in accordance with Commission Rule No. 13 and Regulation No. 54-04(a), and any person wanting to comment on this matter, other than by protest, shall do so in writing, in accordance with Regulation No. 54-04(a), no later than Monday, August 26, 1991.

5. That any person seeking formal oral hearing on this matter shall request one in accordance with Commission Regulation No. 54-04(b), no later than Monday, August 26, 1991.

6. That ANA Hallo Tours (USA), Inc., and Phoenix Tours, Inc., are hereby jointly assessed an application fee of \$100 pursuant to Order No. 3601, served January 17, 1991, and are directed to deliver that amount to the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Monday, August 26, 1991.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:


William H. McGilvery
Executive Director